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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/585,263

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Donald F. Gordon

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12/28/2011

Merchant & Gould - Cox

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EXAMINER

SALTARELLI, DOMINIC D

ART UNIT

PAPER NUMBER

2421

MAIL DATE

DELIVERY MODE

12/28/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/585,263	GORDON ET AL.	
	Examiner	Art Unit	
	DOMINIC D. SALTARELLI	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 15-18 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 15-18 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on December 13, 2011 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 15-18 have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boucher et al. (7,536,705) [Boucher] in view of Miller et al. (5,585,866) [Miller].

Regarding claim 15, Boucher discloses a method (col. 6 line 48 - col. 7 line 13 and col. 34, lines 4-21), comprising:

generating, at a headend, a plurality of frame sequences of graphics and video (data objects, col. 7, lines 36-57, see also col. 12, lines 63 - col. 13 line 4 and col. 13, lines 37-50) to form an interactive program guide user interface (col. 3 line 63 - col. 4 line 3; col. 14, lines 1-3; and col. 14, lines 44-58 "One example of intermixing is a program guide providing a page having text and graphics as well as an inserted window of motion video, e.g., a program preview.");

encoding (col. 8, lines 27-56), at a headend (presentations are organized at the central location server, col. 13, lines 51-55), the interactive program guide user interface to include an identifier for identifying the interactive program guide user interface (PID, col. 13, lines 15-34);

modulating, at a headend, the encoded interactive program guide user interface to produce an interactive program guide stream (col. 42, lines 11-21);

combining, at the headend, the interactive program guide stream and a broadcast bit stream representing audio and video of a broadcast program to form a transport stream (col. 41 line 55 - col. 42 line 21);

transmitting the transport stream to a set top terminal via an in-band content distribution network (col. 42, lines 22-52);

in response to a selection signal providing an identifier for identifying the interactive program guide user interface, extracting, at a set-top terminal, the

interactive program guide user interface associated with the identifier for immediate presentation on a viewer's equipment (col. 39 line 57 - col. 40 line 10);

interacting with a selected presentation via signaling through a bi-directional out-of-band channel (subscriber equipment uses a modem communicating with OOB server using the "user number" to coordinate upstream and downstream signaling, col. 20 line 55 - col. 21 line 5; col. 29, lines 9-25; and col. 40, lines 51-67);

combining, at the headend, presentation images in response to said interactions and transmitting the transport stream to the set top terminal for extraction, at a set-top terminal, the presentation corresponding to the determined view action (col. 15 line 66 - col. 16 line 4).

Boucher fails to disclose determining, at the set-top terminal, a view action of moving a cursor to a lookahead time interval within the presented interactive program guide user interface; in response to the determined view action, wherein said interacting consists of sending a request from the set-top terminal to the session manager at the headend via the bi-directional out-of-band channel for an interactive program guide page corresponding to the determined view action; and said combining and transmitting consist of delivering the interactive program guide user interface from the interactive program guide stream having the interactive program guide page corresponding to the determined view action to present the interactive program guide page corresponding to the determined view action on the viewer's equipment.

In an analogous art, Miller discloses determining, at the set-top terminal, a view action of moving a cursor to a lookahead time interval within the presented interactive program guide user interface; in response to the determined view action, presenting the interactive program guide page corresponding to the determined view action to present the interactive program guide page corresponding to the determined view action on the viewer's equipment (col. 10, lines 36-60 and col. 16, lines 51-60 "...pages to the left if the cursor is at the extreme right side of the display and the right direction arrow is depressed."). This is a standard feature found in interaction electronic program guides, providing the benefit of allowing a user to navigate through the entire program schedule (col. 16, lines 59-60).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Boucher to include determining, at the set-top terminal, a view action of moving a cursor to a lookahead time interval within the presented interactive program guide user interface and in response to the determined view action, presenting the interactive program guide page corresponding to the determined view action to present the interactive program guide page corresponding to the determined view action on the viewer's equipment, as taught by Miller, providing the benefit of allowing a user to navigate through the entire program schedule.

Regarding claim 16, Boucher and Miller disclose the method of claim 15, further comprising:

changing the particular broadcast video display to a new broadcast video display, upon termination of a navigation command (Miller, col. 17, lines 18-23);

wherein changing the particular broadcast video display is accomplished by generating, encoding, and transmitting video packet streams at the headend (Boucher, col. 4, lines 45-61).

Regarding claim 17, Boucher and Miller disclose the method of claim 16, wherein the navigation command navigates only through favorite channels (Miller, col. 11, lines 15-27).

Regarding claim 18, Boucher and Miller disclose the method of claim 15, wherein the interactive program guide user interface is overlaid the broadcast video presentation in response to a signal to activate the interactive program guide user interface (Boucher, col. 15, lines 11-17).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIC D. SALTARELLI whose telephone number is (571)272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DOMINIC D SALTARELLI/
Primary Examiner, Art Unit 2421